

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SENIOR HOUSING ASSISTANCE
GROUP,

Plaintiff,

v.

AMTAX HOLDINGS 260, LLC, et al.,

Defendants.

AMTAX HOLDINGS 260, LLC, et al.,

Counter-Plaintiffs,

v.

SENIOR HOUSING ASSISTANCE
GROUP, et al.,

Counter-Defendants.

No. 2:17-cv-01115-RSM

**DECLARATION OF RYAN TRANE IN
SUPPORT OF DEFENDANTS AND
COUNTER-PLAINTIFFS'
OPPOSITIONS TO PLAINTIFF AND
COUNTER-DEFENDANTS' MOTIONS
FOR SUMMARY JUDGMENT**

NOTE ON MOTION CALENDAR:
December 21, 2018

DECLARATION OF RYAN TRANE

I, Ryan Trane, declare as follows:

1. I submit this declaration in support of the Oppositions to Plaintiff and Counter-Defendants' Motions for Summary Judgment submitted by Defendants and Counter-Plaintiffs AMTAX Holdings 260, LLC, Protech Holdings W, LLC, AMTAX Holdings 259, LLC, AMTAX Holdings 261, LLC, AMTAX Holdings 258, LLC, AMTAX Holdings 257, LLC, AMTAX Holdings 164, LLC, Protech 2002-A, LLC, AMTAX Holdings 109, LLC, and Protech 2001-B, LLC (collectively, the "Limited Partners"). I have personal knowledge of the facts stated herein and would and could testify competently thereto if called as a witness in this matter.

2. I have several years of experience with low-income housing tax credit ("LIHTC") projects and partnerships. I am currently a Senior Vice President of Capital Transactions at Alden Torch Financial LLC ("Alden Torch"). Alden Torch is responsible for managing the Limited Partners' investments in seven partnerships (the "Partnerships") formed to develop and operate seven affordable housing properties (the "Projects") under the federal LIHTC program. Plaintiff and Counter-Defendants are the General Partners of the Partnerships.

3. The Partnerships were formed to provide affordable housing while generating low-income housing tax credits and other benefits for its partners. Like most LIHTC investment vehicles, the Partnerships were each comprised of a General Partner, who earned fees and other income for constructing and operating the Projects, and an Investor Limited Partner, who contributed the vast majority of the Partnership's capital in exchange for tax credits and Partnership equity. The Partnerships also include a Special Limited Partner that is an affiliate of the Investor Limited Partner.

4. The rights and obligations of the Partnerships' partners are set forth in the Partnerships' Amended and Restated Agreements of Limited Partnership (the "Partnership Agreements").

1 5. The Limited Partners would not have entered into the Partnership Agreements
2 absent the General Partners' agreement that they are fiduciaries of and have fiduciary obligations
3 to the Limited Partners.

4 6. The General Partners have repeatedly failed to satisfy their reporting requirements
5 under Section 12.1 of the Partnership Agreements, and they have not paid the late fees that are
6 owed to the Limited Partners because of this untimely reporting.

7 7. The Limited Partners depend on their removal rights to ensure that the General
8 Partners act in the best interests of the Limited Partners and conscientiously manage the Projects.

9 8. The Limited Partners seek to remove the General Partners to ensure that the
10 Projects are properly managed in accordance with the Partnership Agreements and the General
11 Partners' fiduciary duties to the Limited Partners.

12 9. In the event that a Project has significant residual value at the end of the
13 compliance period, the existence of a ROFR at the price specified by Section 42(i)(7) of the
14 Internal Revenue Code will prevent the Limited Partners from exercising their forced sale rights
15 under Section 7.4K because doing so would trigger SHAG's ROFR under Section 7.4L. This
16 ensures that SHAG remains a part of the Project.

17 10. On the other hand, in the event that a Project has little residual value at the end of
18 the compliance period, there are several reasons why the Limited Partners might agree to
19 facilitate the transfer of the Project to Senior Housing Assistance Group ("SHAG") at the price
20 specified by Section 42(i)(7) of the Internal Revenue Code, including to foster their relationship
21 with their nonprofit partner, or because it is administratively simpler to no longer be involved in
22 a partnership with limited back-end upside.

23 11. In fact, because of the way in which LIHTC investments are structured, many
24 LIHTC properties do *not* have a significant amount of residual value at the end of their
25 compliance periods, and it is not uncommon for the price set by Section 42 to be close to, or
26 even higher than, fair market value. In these circumstances, it can be in the interest of the

1 Limited Partners to *trigger* the Section 42 ROFR—either by exercising their forced sale rights
2 under Section 7.4.K, or by consenting to a sale to a third party—and *also* be in SHAG’s interest
3 to *exercise* the ROFR, because a transfer pursuant to the Section 7.4L ROFR allows both parties
4 avoid the time and resources associated with a sale of the property and allows SHAG to obtain
5 sole ownership and control of the Property.

6 I declare under penalty of perjury under the laws of the United States of America that the
7 foregoing is true and correct.

8 Executed December 14, 2018, at Denver, Colorado.

9
10 
11 RYAN TRANE

CERTIFICATE OF SERVICE

On December 14, 2018, I caused a copy of the DECLARATION OF RYAN TRANE IN SUPPORT OF DEFENDANTS AND COUNTER-PLAINTIFFS' OPPOSITIONS TO PLAINTIFF AND COUNTER-DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT to be electronically filed via the Court's Electronic Case Filing System, which will notify all attorneys of record of the filing.

By: /s/ Sonia L. Mejia
Sonia L. Mejia